

Freeborn & Peters

207 433

March 20, 2003

**VIA FEDERAL EXPRESS**

Vernon Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423-0001



*Attorneys at Law*

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
Tel 312.360.6000

Michael A. Smith  
Senior Counsel  
Direct 312.360.6724  
Fax 312.360.6598  
msmith@  
freebornpeters.com

**Re: *Surface Transportation Board Docket No. AB-6 (Sub-No. 400X);  
The Burlington Northern and Santa Fe Railway Company  
Abandonment between Franklin, Nebraska and Red Cloud  
Nebraska***

Dear Secretary Williams:

In regards to the letter from Ross Greathouse, from the Nebraska Trails Foundation, Inc., dated March 15, 2003, The Burlington Northern and Santa Fe Railway fully supports the issuance of a notice of interim trail use pursuant to 16 U.S.C. § 1247(d).

Sincerely,

Michael A. Smith

*Chicago*

*Springfield*

ENTERED  
Office of Proceedings

MAR 21 2003

Part of  
Public Record

cc: Ross Greathouse  
Nebraska Trails Foundation, Inc.  
130 South 13<sup>th</sup> Street  
Lincoln, NE 68508

Jim Angle  
President  
Nebraska Trails Foundation, Inc.  
3800 South 42<sup>nd</sup> Street  
Lincoln, NE 68506

Laura Roybal  
Lower Republican River Visionaries  
605 N. Webster St.  
Red Cloud, NE 68970



## Nebraska Trails Foundation, Inc.

130 South 13th Street • Lincoln, NE • 68508 • 402-475-7712

March 15, 2003

ENTERED  
Office of Proceedings

MAR 21 2003

Part of  
Public Record



Mr. Vernon Williams, Secretary  
Surface Transportation Board  
1925 K Street, NW  
Washington, DC 20423-0001

RE: Surface Transportation Board, Docket No. AB-6 (Sub-No. 400x), Burlington Northern and Santa Fe Railroad Company - Abandonment and Discontinuance of Operation from Franklin, Nebraska to Red Cloud, Nebraska

Dear Mr. Williams:

This comment should be treated as a protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of Nebraska Trails Foundation, Inc., a non-profit organization interested in promoting trail development in the state of Nebraska, which is hereinafter referred to as "Commenter." This is also being filed on behalf of the Republican River Visionaries of Red Cloud, Nebraska.

Commenter takes no position on the propriety of discontinuance of current rail service, but Commenter does request issuance of a Notice of Interim Trail Use rather than outright abandonment authorization. These comments pertain to the rail line of Burlington Northern and Santa Fe Railroad Company, with respect to that portion of the right-of-way in Franklin into Webster County, Nebraska, between Milepost 216.95 near Franklin to Milepost 197.15 near Red Cloud, a distance of approximately 19.80 miles. The right-of-way is part of a line proposed for abandonment in Docket AB-6 (sub-no. 400x.)

A map of the right-of-way is attached.

#### A. Public Use Condition

Commenter requests the Surface Transportation Board find that this property is suitable for other public use, specifically trail use, and to place the following condition on the abandonment:

##### 1. Barring non-public disposition

Condition sought: an order prohibiting the carrier from disposing of the corridor, other than the tracks, ties, and signal equipment, except for public use on reasonable terms.

Justification: This corridor offers an excellent addition to the recreational trails system of the state of Nebraska. This property would allow us to provide hiking and bicycle routes paralleling the Republican River connecting Franklin and Red Cloud. It would offer excellent wildlife viewing and recreational facilities for many small towns.

The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time to coordinate efforts with local interest groups and to commence negotiations with the carrier.

##### 2. Preserving trail-related structures

Condition sought: an order barring removal or destruction of trail-related structures such as bridges, culverts, ballast and rip/rap, but not removal of tracks, ties, and signal equipment.

Justification: Bridges, culverts, ballast and rip/rap have considerable value for, and would certainly facilitate, recreational trail purposes. On the other hand, such structures generally have negative salvage value for a railroad so their preservation poses no burden on interstate commerce.

The time period requested is 180 days from the effective date of the abandonment authorization for the same reason indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for rail-banking. In addition to the public use conditions sought above, Commenter also requests rail-banking and interim trail use. Commenter accordingly makes the following statement:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail-banking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247 (d), and 49 C.F.R. 1152.29, Nebraska Trails Foundation, Inc. and the Republican River Visionaries are willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the use is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by Burlington Northern and Santa Fe Railroad Company.

A map depicting right-of-way is attached.

Nebraska Trails Foundation, Inc. acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

A copy of this statement is being served on the railroad on the same date it is being served on the commission.

By my signature below I certify service upon Sarah Bailliff, Senior General Attorney, Burlington Northern and Santa Fe Railroad Company, 2650 Lou Menk Drive, 3<sup>rd</sup> Floor, Fort Worth, Texas 76131.

Respectfully submitted,

ROSS GREATHOUSE

Ross Greathouse  
For Nebraska Trails Foundation, Inc.

RG:cg

CC: Mike Smith, Attorney  
Freeborn & Peters, Attorneys at Law  
311 South Wacker, Ste 3000  
Chicago, IL 60606-6677  
312-360-6000

John Angle, President  
Nebraska Trails Foundation, Inc.  
3800 South 42 Street  
Lincoln, NE 68506

Rich Batie, Shortline Dev.  
Burlington Northern and Santa Fe Railroad Company  
2600 Lou Menk Drive, 2<sup>nd</sup> Floor  
Fort Worth, Texas 76131

Laura Roybal  
Lower Republican River Visionaries  
605 N. Webster St  
Red Cloud, NE 68970

